

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first written above.

But that contention is frankly irresponsible, for even a modicum of research would have turned up a number of Georgia cases that hold, to quote from a recent one (Perkins v. M & M Office Holdings, LLC, 303 Ga. App. 770, 695 S.E.2d 82 (2010)):

The law is clear that to constitute a sealed instrument, there must be both a recital in the body of the instrument of an intention to use a seal and the affixing of the seal or scroll after the signature." (Punctuation omitted; emphasis supplied.) McCalla v. Stuckey, 233 Ga. App. 397, 398 (504 SE2d 269) (1998), citing Chastain v. L. Moss Music Co., 83 Ga. App. 570 (64 SE2d 205) (1951). It is undisputed that when the Agreement was executed initially, it was not a contract under seal because, while it contained a recital of an intention to use a seal, the word "Seal" did not appear by either party's signature and a seal was not otherwise affixed to the instrument. Koncul Enterprises v. Fleet Finance, 279 Ga. App. 39, 41 (1) (a) (630 SE2d 567) (2006) (contract not under seal where it contained recital of intent to use seal but bore no seal).

That second requirement was clearly not satisfied here -- in that respect this case is on all fours with Perkins and the other Georgia precedent to the same effect. Accordingly Worldpay's counsel need not be concerned with that meritless aspect of Global Cash's response. This Court expects Global Cash's counsel to recede (gracefully, it is hoped) from its position in that regard at the previously-scheduled October 6 status hearing.



Milton I. Shadur
Senior United States District Judge

Date: October 1, 2015